

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re:) Chapter 11
)
EXCEL Staffing Services, Inc.,) Case No. 08-35528-DOT
)
Debtor.)

**NOTICE OF (A) FILING OF MOTION TO DISMISS
BANKRUPTCY CASE AND (B) HEARING ON MOTION**

PLEASE TAKE NOTICE that the above captioned debtor filed with the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division (the "Court") a Motion To Dismiss Bankruptcy Case (the "Motion"). A copy of the Motion is being served upon you simultaneously herewith.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one). Under Local Bankruptcy Rule 9013-1, unless a written response to the Motion is filed with the Clerk of Court and served on the moving party on or before July 25, 2011, the Court may deem any opposition waived, treat the Motion as conceded, and issue an order granting the relief requested.

PLEASE TAKE FURTHER NOTICE that, on July 27, 2011 at 12:00 p.m., (or such time thereafter as the matter may be heard) the undersigned will appear before The Honorable Douglas O. Tice Jr., United States Bankruptcy Judge, in Room 5100, United States Courthouse, 701 East Broad Street, Richmond, Virginia 23219, will move the Court for entry of an order approving the Motion.

If you do not want the Court to grant the relief sought in the Motion, or if you want the Court to consider your views on the Motion, then **on or before July 25, 2011** you or your attorney must:

☒ File with the Court, at the address shown below, a written response with supporting memorandum pursuant to Local Bankruptcy Rule 9013-1. You must

Lynn L. Tavenner, Esquire (Va. Bar No. 30083)
Paula S. Beran, Esquire (Va. Bar No. 34679)
Tavenner & Beran, PLC
20 North Eighth Street, Second Floor
Richmond, Virginia 23219
Telephone: (804) 783-8300
Telecopy: (804) 783-0178

Counsel for the Debtor

mail or otherwise file it early enough so the Court will receive it on or before the due date identified herein.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street, Room 4300
Richmond, Virginia 23219

You must also serve a copy on:

Paula S. Beran
Tavenner & Beran, PLC
20 North Eighth Street, Second Floor
Richmond, Virginia 23219

If you or your attorney do not take these steps, the Court may deem any opposition waived, treat the Motion as conceded, and issue an order granting the requested relief without further notice or hearing.

EXCEL STAFFING SERVICES, INC.

By: /s/ Paula S. Beran
Counsel

Lynn L. Tavenner, Esquire (Va. Bar No. 30083)
Paula S. Beran, Esquire (Va. Bar No. 34679)
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Counsel for the Debtor

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of July, 2011, a true and correct copy of the Notice Of (A) Filing Of Motion To Dismiss Bankruptcy Case And (B) Hearing On Motion was served via first class mail postage prepaid and/or electronic delivery to all parties in interest as listed on the attached service list.

/s/ Paula S. Beran

Counsel

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re:)	Chapter 11
)	
EXCEL Staffing Services, Inc.,)	Case No. 08-35528-DOT
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**DEBTOR’S MOTION TO DISMISS BANKRUPTCY CASE
AND MEMORANDUM OF LAW IN SUPPORT THEREOF**

The above-captioned debtor and debtor-in-possession (the “Debtor” and/or the “EXCEL”), by counsel, hereby moves the Court for the entry of an order dismissing this bankruptcy case. In support of this Motion, the Debtor represents the following to the Court:

Facts

1. EXCEL Staffing Services, Inc., is a Virginia Corporation, located at 200 East Cary Street, Richmond, Virginia 23219. The Debtor’s stock is owned 100% by Ms. Billie D. Brown (“Ms. Brown”), President of EXCEL. Ms. Brown is also responsible for the day to day management of the Debtor.

2. EXCEL is a temporary staffing and brokerage agency servicing the Northeastern Region of the United States. EXCEL is certified as a WMBE through the Virginia Regional Minority Diversity Council, the Virginia Department of Minority Business Enterprise and the City of Richmond. EXCEL is also certified by the Small Business Administration as a socially and economically disadvantage small business under the 8(a) program.

Lynn L. Tavenner, Esquire (Va. Bar No. 30083)
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Counsel for the Debtor

3. On or about November 3, 2008 (the “Petition Date”), the Debtor commenced its case (the “Bankruptcy Case”), with the assistance of prior counsel (“Prior Counsel”), by filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code, 11 U.S. C. §§ 101, et. seq. (the “Bankruptcy Code”).

4. At a point in time, the Debtor became concerned about the legal representation it was receiving from Prior Counsel and decided to obtain retain replacement counsel.

5. In November, 2009, because of its experience and expertise, the Debtor consulted with Tavenner & Beran, PLC (“Tavenner & Beran”) about a potential engagement and the most efficient and prudent means to complete its bankruptcy case. Thereafter, this Court approved the employment of Tavenner & Beran to replace Prior Counsel.

6. The primary reason for the Debtor’s Bankruptcy Case was a dispute (and the impact of the same) with the Virginia Employment Commission (the “VEC”).

7. The dispute with the VEC has been resolved. Accordingly, the Debtor believes it is in the best interest of it’s estate to dismiss the Bankruptcy Case. The Office of the United States Trustee does not object to the same.

Legal Argument

8. Pursuant to § 1112 of the Bankruptcy Code, this Court may dismiss this Bankruptcy Case, after notice and a hearing, for cause provided dismissal is in the best interest of creditors and the estate. In this instance, it is in all parties’ best interest that the case be dismissed. The Debtor has reached a settlement with VEC. Creditors and other parties in interest have notice of this Motion and, specifically, the Debtor’s intent to dismiss its Bankruptcy Case.

9. Generally, Bankruptcy Rule 2002 requires that a minimum of twenty-one (21) days notice of a hearing on motions to dismiss. Fed. R. Bankr. P. 2002(a)(4). Pursuant to Bankruptcy Rule 9006, the Court, for cause, may reduce said notice period. The Debtor submits that cause exists (if necessary) to shorten the notice period because in essence this dismissal is being prosecuted as part of an agreement with the Debtor's major creditor, and no other creditors have participated in a significant fashion to date in this Bankruptcy Case.

10. Based upon the foregoing, the Debtor respectfully submits that ample cause exists (if necessary) to shorten the 21-day notice period set forth in Bankruptcy Rule 2002(a)(4) thereby allowing the Court to hear this Motion on the scheduled date of July 27, 2011.

WHEREFORE, the Debtor respectfully requests that the Court dismiss the Bankruptcy Case by entering the order attached hereto as Exhibit A.

EXCEL STAFFING SERVICES, INC.

By: /s/ Paula S. Beran
Counsel

Lynn L. Tavenner, Esquire (Va. Bar No. 30083)
Paula S. Beran, Esquire (Va. Bar No. 34679)
Tavenner & Beran, PLC
20 North Eighth Street, Second Floor
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Telephone: (804) 783-8300
Telecopy: (804) 783-0178

Counsel for the Debtor

CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2011, a true copy of the foregoing Debtor's Motion To Dismiss Bankruptcy Case And Memorandum Of Law In Support Thereof was mailed, first class postage prepaid, and/or electronically to all parties in interest as listed on the attached Service List.

/s/ Paula S. Beran

Counsel

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

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Debtor.)

ORDER DISMISSING BANKRUPTCY CASE

This matter came before the Court upon Debtor's Motion To Dismiss Bankruptcy Case And Memorandum Of Law In Support Thereof, (the "Motion"); and it appearing to the Court that (i) no objections to the Motion have been filed; (ii) the Debtor and the Office of the United States Trustee consent to the dismissal relief requested in the Motion; and (iii) it is in the best interest to dismiss the Debtor's bankruptcy case, it is hereby ORDERED that:

1. The Motion is hereby GRANTED;
2. Capital terms not otherwise defined herein shall have the meaning prescribed in the Motion.
3. The Bankruptcy Case of Excel Staffing Services, Inc. is hereby dismissed; and
4. The 21-day notice period set forth in Bankruptcy Rule 2002 (a)(4) is hereby reduced allowing the Motion to be heard on July 27, 2011.

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Telephone: (804) 783-8300
Telecopy: (804) 783-0178

Counsel for the Debtor

5. The Clerk is directed to send a copy of this Order upon entry to all parties listed on the Service List attached hereto.

Entered:

CHIEF UNITED STATES BANKRUPTCY JUDGE

I ask for this:

Paula S. Beran, Esquire (Va. Bar No. 34679)
Tavenner & Beran, PLC
20 North Eighth Street, Second Floor
Richmond, Virginia 23219
Telephone: (804) 783-8300
Telecopy: (804) 783-0178

Counsel for the Debtor

Seen and No Objection:

Robert B. Van Arsdale, Esquire
Office of the United States Trustee
701 East Broad Street, Suite 4304
Richmond, Virginia 23219
(804) 771-8004

Assistant United States Trustee

CERTIFICATION

I hereby certify that, pursuant to Local Rule 9022-1, the foregoing proposed Order Dismissing Bankruptcy Case has been served on or endorsed by all necessary parties.

Counsel

Service List for Entered Order

Robert B. Van Arsdale, Esquire
Office of the United States Trustee
701 East Broad Street, Suite 4304
Richmond, Virginia 23219

Paula S. Beran, Esquire
Tavenner & Beran, PLC
20 North Eighth Street, Second Floor
Richmond, Virginia 23219

Cynthia H. Norwood
Senior Assistant Attorney General
Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219

City of Richmond, Virginia
Department of Public Utilities
730 E. Broad Street, 5th Floor
Richmond, VA 23219-1861

Taxing Authority Consulting Services,
P.C.
Attn: Mark K. Ames, Esquire
P.O. Box 71476
Richmond, VA 23255

INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY
OPERATIONS
P.O. Box 21126
Philadelphia, PA 19114-0326

GE Money Bank
c/o Recovery Management Systems Corp.
Attn: Ramesh Singh
25 SE 2nd Avenue, Suite 1120
Miami, FL 33131-1605

American International Co. A.I.G.
P.O. Box 4647
Lutherville Timonium, MD 21094-4647

American Zurich Ins. Co.
c/o St. Paul Travelers (Invol.)
c/o RMS Bankruptcy Recovery Services
P.O. Box 5126
Timonium, MD 21094-5126

Anthem Southeast Dental
P.O. Box 758987
Baltimore, MD 21275-8987

Butler Realty
2025 East Main Street
Richmond, VA 23223-7069

CareerBuilder, LLC
200 N. LaSalle St., Suite 1100
Chicago, IL 60601-1084

Careerbuilders
200 N. LaSalle Street
Chicago, IL 60601-1014

Citibank (South Dakota) N.A.
4740 121st St.
Urbandale, IA 50323-2402

City of Richmond Department of Public
Utilities
730 E. Broad Street, 5th Floor
Richmond, VA 23219-1861

Commonwealth of Virginia
Department of Taxation
P.O. Box 2156
Richmond, VA 23218-2156

Consolidated Bank & Trust Comp
320 North First Street
Richmond, VA 23219-1722

DELL FINANCIAL SERVICES, LLC
Collections/Consumer Bankruptcy
12234B North I-35
Austin, TX 78753-1705

Dell Financial Services
P.O. Box 6282
Carol Stream, IL 60197-6282

Granite State Insurance Company, et als
AIG Bankruptcy Collections
c/o David A. Levin
70 Pine Street, 28th Floor
New York, NY 10270-0002

Guarantee Insurance Company
P.O. Box 406012
Atlanta, GA 30384-6012

Gx Technologies
595-B Southlake Boulevard
Richmond, VA 23236-8000

Harrell & Chambliss LLP
707 East Main Street, Suite 1000
P.O. Box 518
Richmond, VA 23218-0518

Lowes Business Account
P.O. Box 530970
Atlanta, GA 30353-0970

MCI Small Business Service
P.O. Box 650355
Dallas, TX 75265-0355

Marlin Leasing Corporation
300 Fellowship Road
Mt. Laurel, NJ 08054-1727

Moya Accounting
300 Turner Rd., Suite B
Richmond, VA 23225-6431

Office of the U.S. Trustee
701 East Broad Street, Suite 4304
Richmond, VA 23219

Optima Health Plan-Small Group
P.O. Box 791132
Baltimore, MD 21279-1132

Peter & Jennifer Wong
15 Roslyn Hill Drive
Richmond, VA 23229-7912

Prime Rate Premium Finance Co
P.O. Box 580016
Charlotte, NC 28258-0016

Prime Rate Premium Finance
P.O. Box 100507
Florence, SC 29502-0507

Pryor Hauling
4509 Pouncey Tract Road
Glen Allen, VA 23059-5835

Internal Revenue Service
P.O. Box 21126
Philadelphia, PA 19114

Richmond Economic Development
411 E. Franklin Street
Suite 203
Richmond, VA 23219-2243

Safco Insurance
P.O. Box 461
Saint Louis, MO 63166-0461

Staples Credit Plan
P.O. Box 689020
Des Moines, IA 50368-9020

The Tile Shop
800 Walt Street. F4030-04C
Des Moines, IA 50309-3605

Travelers Insurance
CL Remittance Center
P.O. Box 1008
Hartford, CT 06183-1008

Tyrus Bingham
110 Epsilon Road
Richmond, VA 23235-0000

U.S. Attorney's Office
600 East Main Street
18th Floor
Richmond, VA 23219-2430

Verizon Online
P.O. Box 12045
Trenton, NJ 08650-2045

Verizon Wireless
P.O. Box 17120
Tucson, AZ 85731-7120

Verizon Wireless Northeast
P.O. Box 3397
Bloomington, IL 61702-3397

VIRGINIA DEPARTMENT OF
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P.O. Box 2156
Richmond, VA 23218-2156

Virginia Employment Commission
703 East Main Street
Richmond, VA 23219-3315

Virginia Employment Commission
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Rm 305
Richmond, VA 23218-1358

Bernice Stafford-Turner
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Richmond, VA 23260-5852

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Richmond, VA 23219

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